



FOSTER CITY TELECOMMUNICATIONS POLICY

Approved and adopted by
the City Council of the City of Foster City

November 5, 2007

City of Foster City Telecommunications Policy

A. EXECUTIVE SUMMARY	3
POLICY ADMINISTRATION RESPONSIBILITY	3
B. SUMMARY GOALS AND OBJECTIVES	4
GOAL A – RETAIN CONTROL OF PUBLIC PROPERTY	4
GOAL B – PROMOTE UNIVERSAL AVAILABILITY	4
GOAL C – PROMOTE USE OF TELECOMMUNICATIONS TECHNOLOGY	4
GOAL D – FACILITATE CREATION OF ADVANCED TELECOMMUNICATIONS INFRASTRUCTURE	4
OBJECTIVES	4
C. REASONS FOR A TELECOMMUNICATIONS POLICY	6
PURPOSE OF A TELECOMMUNICATIONS POLICY	6
CHANGING INFRASTRUCTURE OF TELECOMMUNICATIONS	7
CONVERGENCE , COMPETITION AND REGULATION	8
COMMUNITY CONDITIONS	9
A VISION FOR TELECOMMUNICATIONS	10
CITY’S ROLES IN TELECOMMUNICATIONS STRATEGIES FOR FOSTER CITY	11
<i>The City as Regulator</i>	11
<i>The City as Facilitator</i>	11
<i>The City as User</i>	11
D. PRINCIPLES GUIDING THE TELECOMMUNICATIONS POLICY	12
MAINTAINING REGULATORY POWER OF LOCAL INFRASTRUCTURE	12
RIGHT TO COMPENSATION FOR USE OF PUBLIC RIGHTS-OF-WAY AND CITY-OWNED PROPERTY	12
RECOGNITION OF BROADBAND CAPACITY TO ENHANCE COMMUNITY DEVELOPMENT AND CITY SERVICES	12
E. SUMMARY POLICY STATEMENTS	13
UNIVERSAL ACCESS	13
REGULATORY STRUCTURE	13
USE OF CITY-OWNED PROPERTY	13
COMPENSATION AND MANAGEMENT OF PUBLIC RIGHTS-OF-WAY AND LOCAL INFRASTRUCTURE	14
CITY AS USER AND FACILITATOR OF TELECOMMUNICATIONS SERVICES	15

A. Executive Summary

Telecommunications resources continue to be developed at an extremely rapid pace, supporting economic development, promising new tools for streamlining the delivery of both public and private services, and new opportunities to improve the quality of life of residents. Local governments must be mindful of the impact of this continually changing industry on cities and on the residents and businesses they serve. Thus, the City of Foster City has developed this comprehensive telecommunications policy, a “living document”, that will define the City's policy goals and objectives contained in addressing the complex and ever-changing arena of advanced telecommunications services.

Over the next three to five years, a successful City of Foster City telecommunications policy will mean that:

- The City will **promote competition, affordability, and City-wide availability** of telecommunications services.
- The City will **preserve regulatory control over its rights-of-way** within the confines of state and federal legislation.
- The City will **retain franchising authority for the use of public property to the fullest extent allowed by law** and will **receive similar fair compensation from providers offering similar services.**
- The City will **manage its public rights-of-way through a uniform set of standards**, and will **receive fair compensation** for loss of revenues or increased **costs associated with the degradation of the public rights-of-way.**
- The City will **continually review opportunities for implementation of telecommunications technology** to improve services to City residents.

Policy Administration Responsibility

Developing and implementing the Telecommunications Policy is the responsibility of the City Council. The policy will be reviewed and evaluated annually, or earlier as conditions warrant, by the City's Information Technology Advisory Committee in conjunction with the City Manager or his / her designee. Any changes to the Policy will be recommended to the City Council for approval.

The City Manager or his/her designee will be responsible for the following in accordance with the policies established herein:

- Monitoring telecommunications services and issues in the City.
- Negotiating with telecommunications providers for use of public property in accordance with the policies established herein. All such agreements will be brought before the City Council for approval.
- Monitoring compliance with the City's uniform standards for using the rights-of-way on behalf of the City Council.

B. Summary Goals and Objectives

The proposed goals and objectives of this Policy are as follows:

Goal A – Retain Control of Public Property

To retain control of public property within the confines of state and federal legislation to regulate telecommunications services provided to Foster City residents and businesses.

Goal B – Promote Universal Availability

To promote universal availability to telecommunications services for all Foster City residents and businesses.

Goal C – Promote Use of Telecommunications Technology

To promote use of telecommunications technology, where appropriate and within the scope of available resources, to enhance the economic vitality of Foster City.

Goal D – Facilitate Creation of Advanced Telecommunications Infrastructure

To facilitate the creation of an advanced telecommunications infrastructure, within given resources, for Foster City residents, businesses, industries and schools.

Objectives

- Promote retention of the City's regulatory role in telecommunications.
- Advocate symmetrical regulation for all Foster City telecommunications service providers.
- Encourage high quality service and service standards for all telecommunications providers.
- Advocate for privacy laws and security standards at State and Federal levels that protect Foster City telecommunications users.
- Promote universal service and access for every Foster City resident and business.
- Promote the opportunity for the Foster City community to acquire the appropriate telecommunications skills to participate in a technologically advanced society
- Encourage Foster City businesses and industries in leveraging telecommunications technology to remain competitive and conduct businesses with anyone, anywhere, at any time.

- Advocate legislation that identifies telecommunications revenue sources for local governments.
- Advocate for the Foster City telecommunications infrastructure to be a reliable broadband interactive digital network that will provide advanced telecommunications services for its residents, businesses, industries and schools.
- Promote interconnection and common carrier collaboration among Foster City telecommunications providers and the City.
- Promote a telecommunications system designed to stimulate competition and innovation.

C. Reasons for a Telecommunications Policy

Purpose of a Telecommunications Policy

Since the late 1980's, telecommunications technologies have expanded rapidly as a wide range of industries compete and collaborate to build upon the global expansion of the Internet and share in its economic possibilities.

These industries are diverse, yet more and more are converging services to provide a single platform to provide voice, data and video services. Cable television, long-distance and wireless telephone, Internet service and content providers (both wireline as well as wireless), local utilities and regional Bell operating companies all are seeking to deliver the same type of services in different ways to the market. Companies have partnered with software and hardware firms to develop the programming and services that will be delivered over the Internet to businesses, governments, hospitals, schools and homes. Potential services from all broadband services are expected to increase as new technologies emerge.

This rapid convergence of technologies, the increasing use of computers and mobile devices at home and in the workplace, and the private sector race to build and control the Internet present a number of policy issues for the City of Foster City. In keeping with the City's proactive stance on policy issues, the telecommunications policy will develop goals to address both short-term and selected long-term telecommunications issues in a coordinated and rational manner.

Since the adoption of the initial Telecommunications Policy in February 2000, the community has seen significant changes in its telecommunications menu of choices: 1) an upgrade of the existing cable system that now provides HDTV, telephone services, and up to 6 mbps of Internet download speeds; 2) an upgrade of the telephone system that now provides faster DSL service; 3) a new video service provider in the form of the telephone company that provides directly competitive services to the cable provider; 4) implementation of Citywide wireless Internet ("wi-fi") by a private company using City lightpoles as mounting assets to deliver the service; 5) continued growth in the use of wireless cellular providers and services; 6) ability to make long-distance calls at low- or no-cost using the Internet; 7) continued falling prices and choices of service providers for telephone services; 8) implementation of e-911 services by the Foster City Police Department to allow cellular 911 calls to come directly to FCPD; 9) the Public Works department licensing spectrum from the FCC to automate water meter reading functions; 10) incredible growth of the use of the Internet in areas such as e-commerce, social networking, video and online gaming to name a few. The City's Telecommunications Policy has allowed the City to navigate these changing rivers of telecommunications.

At the same time, municipalities throughout the State of California have seen the most significant change in telecommunications regulation in the past 20 years:

state franchising of video services. Through the passage of the Digital Infrastructure and Video Competition Act of 2006 (DIVCA), the State of California is now in a position to issue statewide franchises to cable and video service providers wishing to do business at a local level. While cities have maintained their ability to control the public rights-of-way, franchise fees (payments for the use of those rights-of-way), Public Educational and Government (PEG) channels and support fees, the landscape of regulatory authority over these services has changed dramatically.

Telecommunications policy has been set at the national and state levels, yet decisions for commercial use of telecommunications technology are being strongly influenced by the private sector. However, local governments and their residents will feel the strongest impact of these decisions.

- It is **local rights-of-way** where the telecommunications plant is being installed.
- It is **local residents and businesses** that will generate revenue for the services and products offered.
- It is the **economic health of local communities** that will be impacted most by economic shifts from the increased use of technology.
- Finally, it is in **local communities** that the **character of communications** will change to reflect changes in global communications as a result of the continuing development of the Internet.

Telecommunications technology will play an increasingly greater role in several major areas of immediate importance to the City, including the provision of City services and dissemination of information to the public, the City's economic development strategy to retain current members of the business community while attracting new businesses, revenue enhancement, and improved quality of life. It is important that the City maintain general policy approaches to maximize the benefits of the growing use of telecommunications technology while keeping potential costs and liabilities to a minimum for the City and the community. By doing so, the City will be in a position to develop a more specific and effective approach to protect its assets and interests and to manage its telecommunications resources.

Changing Infrastructure of Telecommunications

Traditionally, copper wire has been the primary method for delivering audio-based services while coaxial cable has been the method for delivering video services. Over the past 10 years, the development of fiber optic technology has contributed to the growing deployment of broadband networks that allow for the transmission of audio and video services, in addition to huge quantities of information. The emerging infrastructure has become, and will continue to become, infinitely more intelligent, robust and flexible than the one it is gradually replacing. Just within the last 3 years, consumers now have a single wire to their residence or business providing a variety of new and upgraded services such as

high-definition broadcast television, video-on-demand, enhanced audio services, teleconferencing, direct Internet access and high-speed data connections. This single wire is part of a local infrastructure that could offer termination points for coaxial cable, copper cable, fiber optics cable or even a wireless hub. These types of changes are expected to continue in the future, and new services hardly even imagined a decade ago will be a reality by 2010.

Another area of dramatic change is in the area of cellular telecommunications services. The increased affordability and ease of use of cellular phones and pagers continue to fuel the wireless market. This incredible growth in demand for such wireless services places pressure on providers to maintain a stable, reliable network.

Accordingly, cities such as Foster City continue to see wireless telecommunications providers placing their infrastructure (mainly in the form of antennas and dishes) within cities. This in turn can dramatically impact the well-groomed appearance that cities such as Foster City cherish as antennas spring up within the community.

Most of the standards and technologies for these advanced services exist today, but remain in flux, presenting a dilemma for local governments: how should they address standards for telecommunications providers as the technology continues to change?

Convergence , Competition and Regulation

Many years ago, American Telephone & Telegraph (AT&T) was recognized as the world's best single telecommunications provider. They attained monopoly status. However, new technologies began to threaten their dominance in the telecommunications arena. Cellular phones, cable television, and new companies such as Sprint and Verizon threatened that monopoly.

The monopoly ended in 1984 when "Ma Bell" was split into regional Bell operating companies (RBOC's), offering local telephone service with long distance provided by AT&T. The consumer was faced with new choices in long distance providers. Soon, cable companies and other alternatives to "plain old telephone service" came to the forefront, creating a larger and more diverse telecommunications industry.

Historically, telephone companies and cable companies were prohibited from providing services in each other's market. However, new market entry rules set forth in the Telecommunications Act of 1996, and the enactment of California's DIVCA in 2006, provide for a new marketplace that will allow these companies to offer a wider range of services. These companies are poised to directly compete with each other to provide that single wire.

The federal government is seeking to remove the barriers even further, and different rules and/or laws that could potentially trump California's DIVCA legislation are currently being discussed at the FCC and in Congress. Given the near-collapse of US economic markets in 2000, the recent recovery and infusion

of venture capital back into the technology fields, federal and state governments are being pressed to free the regulations that are viewed by private enterprise as placing barriers upon them. The move is to reduce or eliminate local control over such issues as types of services regulated, customer service standards, and compensation for the use of rights-of way. Local agencies continue to fight hard over maintaining compensation and service levels and maintaining local control over rights-of-way.

In short, the differences between voice, video and data technologies have blurred, producing new industries, alliances and classes of products and services. These all result in new opportunities for the City, but further challenges in maintaining its infrastructure. With a new regulatory landscape in effect at the state and federal level, it will be incumbent upon the City to remain vigilant in advocating, analyzing and implementing new regulations in which it may have little or no control.

Community Conditions

Technological advances are opening possibilities for improving the quality of life for the community as well as the manner in which industry and government operate. Improved technology allows people to be more productive and better informed, educated and entertained. As a result, telecommunications technology has become an important economic and social benefit for the City. The challenge facing the City is to gain maximum benefit from this more competitive environment by preserving and extending the best aspects of current technology while upgrading and expanding to incorporate advanced technology. The City seeks to keep abreast of the emerging technologies and to incorporate those most appropriate to improve services offered to the City's schools, businesses, industries, community organizations and residents.

Specific community conditions that warrant a City telecommunications policy are:

- **Advanced Telecommunications are Here** – By virtue of a strong Telecommunications Policy in place, the City has seen the installation of such advanced telecommunications services as higher-speed internet service by the cable and phone companies, more reliable telephone service, competitive choice for land-based video services, Citywide wi-fi services in outdoor areas, enhanced cellular coverage within the City limits, and a fiber network that will connect all City facilities and all public schools in Foster City as well as 60 other sites throughout San Mateo County,
- **The City's future economic vitality** – The City has seen a strong growth in biotech and technology industries based in Foster City the past 15 years. The continued growth of these sectors within our community will be incumbent upon the City creating good public policy that allows for the implementation of a solid telecommunications backbone to support these emerging industries. As employment, education and entertainment become increasingly more intertwined with technology, the City's residents, public entities, and businesses will need to attach to the same vigorous

infrastructure. If the City's telecommunications infrastructure is advanced, robust, scalable and secure, established high-technology industries will be attracted to the City, and new industries will arise here as we have seen in the biotech sector.

- **Protection of public rights-of-way and citizen rights** – The City is concerned about maintaining control of its public rights-of-way and franchising authority in order to protect the rights of its residents, businesses, schools and industries, as well as its roadway infrastructure. The City's advocacy position for fair and open competition, universal access, privacy and security are also areas of concern.
- **Improved quality-of-life for City residents** – Improved quality-of-life for Foster City residents requires the ability to compete for employment in a global marketplace, communicate with anyone at any time, gain access to world-wide information, engage in electronic commerce, learn throughout a lifetime, improve health care and to care for those with special needs. All of these are supported by a proper, reliable telecommunications infrastructure.

A Vision for Telecommunications

The Information Technology Advisory Committee has been studying the state of telecommunications from a local to global perspective the past several years. The major community concerns have been partially identified and, as a result, a vision for the future of telecommunications in Foster City developed that contains the following components:

- Telecommunications will continue to be of strategic importance to the City.
- The telecommunications infrastructure will offer City residents easy access and connectivity to worldwide information.
- Telecommunications technologies will attract an increasing share of new business to the City, providing for revenue enhancement.
- The City will foster a level playing field for all companies that offer telecommunications services and products.
- Telecommunications will enhance rapid, effective and efficient police, fire and emergency response, resulting in enhancement of public safety.
- The City will pursue partnerships that address community-wide telecommunications concerns.
- City staff will be empowered to recommend and implement sound public policies and services effectively, collaboratively and efficiently in an information-rich environment.
- The City will encourage and facilitate access to telecommunications technologies for residents, businesses, education, and social service agencies.

City's Roles in Telecommunications Strategies for Foster City

The City needs to continue to provide coordinated, thoughtful responses to emerging telecommunications issues and opportunities over the next five years. This lays the foundation for a comprehensive set of policies and plans for the long term as industries emerge and stabilize. A general approach to emerging issues will guide the City in avoiding potential problems while taking advantage of opportunities.

In implementing a telecommunications policy, the City needs to define the emerging issues and the City's roles in addressing these issues in three key areas:

The City as Regulator

What are the major regulatory issues that will face the City in the immediate future? What legislative priorities should the City advocate to address its most important telecommunications concerns? What will the regulatory role of local government be in the face of legislative change?

The City as Facilitator

What role should the City play to facilitate the development of a telecommunications infrastructure in Foster City? Should the City consider owning the infrastructure? What partnerships (private and public) should the City pursue in order to accomplish its telecommunications goals?

The City as User

How should the City use telecommunications to disseminate information to the public, improve interaction with residents, and improve the quality of City services provided to the community?

D. Principles Guiding the Telecommunications Policy

Maintaining Regulatory Power of Local Infrastructure

The City must have certain regulatory powers over telecommunications service providers in order to protect city infrastructure, ensure open access to telecommunications services, protect the privacy of consumers of these services, and correct the market inequities that will occur when the advanced telecommunications services market becomes truly open and competitive

Right to Compensation for Use of Public Rights-of-Way and City-owned Property

The City should receive compensation for use of the public right-of-way from all users of the public rights-of-way, including telecommunications service providers. Cities should also receive compensation for the short- and long-term negative impacts of installing fiber-optic and other telecommunications wire in city streets and in the public right-of-way. Maintaining these revenues will be especially important as municipal regulatory authority for video services are reduced due to a softening of regulatory and franchise powers.

Recognition of Broadband Capacity to Enhance Community Development and City Services

The City recognizes that broadband capacity has considerable value, in that it can be used both to enhance the economic and residential development of the City, as well as to support city operations and streamline delivery of a variety of public services. Accordingly, the entire community should recognize an appropriate allocation of all advanced telecommunications resources, such as: bandwidth on broadband networks; fiber-optic wiring; enhanced high-speed digital services on traditional telephone networks; wireless telecommunications and internet access coverage in every part of the City, utilization of wireless technologies such as microwave, wi-fi and Wi-Max; and, use of licensed spectrum radio frequency for public safety and public works.

E. Summary Policy Statements

Universal Access

The City's policy position supports state and federal legislation that promotes affordability, competition, interconnectivity of systems, and uniform, non-discriminatory provision of services. Further, the City supports the requirement that all telecommunications service providers equitably share the responsibility as well as the cost for maintaining universal service.

The City's advocacy position promotes the belief that as the number of people and institutions able to access the telecommunications infrastructure increases, the more value it has for the community as a whole. Ultimately, telecommunications products and services should be as universally accessible in the future as telephone service is today. The City stands to benefit from universal access in that as the number of residents able to access telecommunications increases, the more the City will be able to use telecommunications to provide services and make information available to the residents. In turn, that capability will make City government more accessible and more efficient and will encourage a higher degree of public participation in and support for local government. Indeed, a large percentage of the City's roles as regulator and service provider, as well as facilitator, are dependent on universal access to the telecommunications infrastructure.

Regulatory Structure

The City supports efforts to establish an open, competitive marketplace for telecommunications services, and a level playing field for telecommunications service providers. An integral component of this open marketplace is the symmetrical application of regulations to all telecommunications service providers, including wireless service providers. Therefore, the City supports the preservation of local authority over matters of local impact.

Use of City-owned Property

The City's quality of life is enhanced by the effective use of property still owned by the City. The City is cognizant of the need for land for local telecommunications providers to provide services to the community.

The City wishes to balance the competing interests of the community and telecommunications providers. Accordingly, the City shall allow for the use of City-owned property, including the use of such assets as radio towers or lightpoles, to the extent it does not impact any current amenities provided by use of such property, nor would inhibit the implementation of necessary programs or services required in the foreseeable future. The City shall designate zones within its owned property that may be leased to telecommunications service providers for purposes outlined within this Telecommunications Policy. Such leases can be deemed short-term or long-term depending upon the needs of the

telecommunications provider requesting such space and the City. Use of such property shall not be determined to be "in perpetuity" or a "land purchase". The City is not obligated to find space for providers, particularly if such designated space is deemed to be unavailable. All providers will be obligated to submit written plans and specifications for the work to be performed as required by the City's Public Works and/or Community Development departments and local law.

The City, at its sole discretion, may elect to allow private organizations to lease such property providing that there is expected to be a community benefit for the use of such property. Such community benefits may include, but are not limited to, enhanced property values, promoting economic development, and the provision of services that may benefit multiple persons or entities.

The City shall be compensated at a reasonable price for the use of such property. Further, the use of such property shall be deemed leased to the provider for a period mutually agreed to by both parties. The City understands that with respect to the implementation of wired infrastructure that the use of such property for all intents and purposes will be franchised to the provider in perpetuity. Nevertheless, the City's stated preference is that such use shall have a fixed term and shall not revert ownership of such property to the user.

Compensation and Management of Public Rights-of-Way and Local Infrastructure

The City is concerned with the potential negative impact on the integrity of public rights-of-way as a result of increasing access for new, upgrade, maintenance and repair construction by current and future telecommunications companies. The City is also concerned with the potential costs resulting from accelerated wear and damage to the rights-of-way and the issue of growing unsightliness in the community from the proliferation of overhead wires, ground amplifiers, junction boxes and so on. To protect public property:

- The City strongly advocates that state and federal legislation continue to provide local government with the authority to protect the integrity of public assets.
- All users of the public rights-of-way should be subject to a uniform set of standards regulating similar activities and required to pay fair compensation equitably in order to ensure a "level playing field". If telecommunications providers are allowed unrestricted access without payment of fair compensation, the potential loss of revenue coupled with the increased costs incurred to impede further degradation of the public rights-of-way will have an enormous negative impact on the City.
- The City shall publish standards and requirements relating to encroachment permits and infrastructure placed in the public rights-of-way and shall require all telecommunications providers to be held to these standards. Such standards shall be agreed to by the telecommunications providers in the form of an Encroachment Agreement.

City as User and Facilitator of Telecommunications Services

The City of Foster City uses a variety of telecommunications technologies in providing services to the public, including telephones, mobile phones and data connectivity, voice mail, fax machines, personal computers, video services, and internal and external e-mail. City utilization of telecommunications is for both internal staff use and to communicate with the public and is employed by virtually every department in day-to-day operations.

In addition to technologies already in use, the City continually explores potential applications for telecommunications to enhance efficiency and customer satisfaction in the provision of City services. The City will maintain an on-going evaluation of emerging technologies in order to be prepared for new opportunities as the technology continues to evolve.

The City recognizes that advanced telecommunications resources have considerable value. The City will facilitate the availability of advanced telecommunications services to serve residents and businesses within Foster City through proactive communication with current and prospective service providers. Further, the City will facilitate discussions amongst various telecommunications providers and seek opportunities for the collocation of facilities and equipment within Foster City.